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ABSTRACT

This brief explores the pros and cons of three alternative approaches to college admissions policies: race-based preferences, which are backed by most Democrats; class-rank plans (admitting the top students in each high school), which is backed by the Bush administration; and economic affirmative action for the disadvantaged of all races, which has broad popular support. The brief draws on new data from a study of alternative approaches at 146 top U.S. colleges. It evaluates the three approaches, focusing on seven criteria: fairness to individual applicants; racial and economic diversity; graduation rates; legality; politics; application nationally and to graduate education; and enforcement and cost. The brief concludes that, although economic affirmative action is likely to be the most expensive of the alternatives, it provides the single most effective way of meeting a number of important goals. (Contains 74 endnotes.) (SM)

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Economic Affirmative Action in College Admissions:

A Progressive Alternative to Racial Preferences and Class Rank Admissions Plans

Richard Kahlenberg
April 2003

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THE CENTURY FOUNDATION
ISSUE BRIEF SERIES

Economic Affirmative Action in College Admissions

A Progressive Alternative to Racial Preferences and Class Rank Admissions Plans

By Richard Kahlenberg

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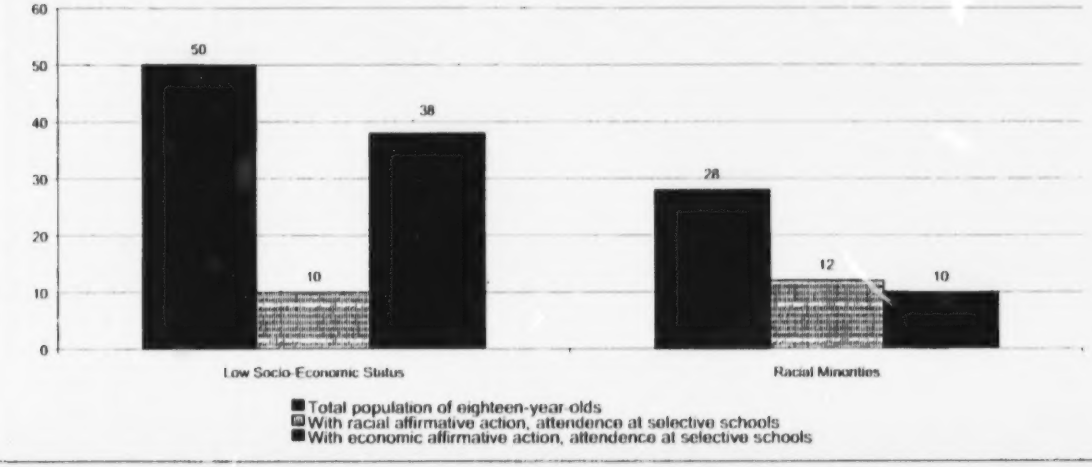
As the U.S. Supreme Court considers the validity of race-conscious affirmative action at the University of Michigan, the debate over admissions policies centers around three alternatives: (1) race-based preferences backed by most Democrats; (2) class-rank plans, admitting the top students in each high school, backed by the Bush administration; and (3) economic affirmative action for the disadvantaged of all races, which has broad popular support.[1]

This brief explores the pros and cons of each of these three approaches along several criteria: Is the system "fair" to individual applicants? Will the program produce substantial racial and economic diversity? Will the approach admit students who are likely to graduate? Is the approach vulnerable to legal challenge? Does the alternative have broad public support? Is the approach replicable—can it be applied in all states, and to graduate-level as well as undergraduate admissions? What is the cost, and the feasibility of the plan? The brief, which draws on new data from a Century Foundation study of alternative approaches at the nation's top 146 colleges, concludes that economic affirmative action provides the single best way of meeting a number of important goals.[2]

Figure 1. Selective College Attendance under Racial and Economic Affirmative Action



Selective schools are the most competitive four-year colleges as defined by Barron's Guide to Colleges. Low socioeconomic status is defined as the least advantaged 50% of the population by income, education, and occupation. Racial minorities are defined as African Americans and Latinos.

Source: Anthony P. Carnevale and Stephen J. Rose, "Socioeconomic Status, Race/Ethnicity and Selective College Admissions" The Century Foundation, New York, March 2003.

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I. Background: Three Approaches

The fight over access to the limited spaces at selective universities matters because there are substantial advantages to attending a selective college. For one thing, as Anthony Carnevale of the Educational Testing Service and Stephen Rose of ORC Macro International find, controlling for test scores, students in selective colleges are more likely to graduate. Of students scoring between 1000 and 1100 on the SAT, for example, 86 percent graduate from the most selective colleges compared to only 67 percent in the least selective. In addition, attending a top tier college promotes access to post-graduate schools. Among students scoring above 1200 on the SAT, 48 percent of those attending selective colleges go on to attend graduate school compared with 26 percent of those attending less competitive and noncompetitive schools. Though more controversial, a number of studies also find a wage premium of 5 percent to 20 percent value added from attending a competitive school (controlling for initial ability). Even studies which find a small wage premium on average find that low income students gain disproportionately from attending a more selective school.[3]

A system of student admissions based solely on grades and test scores would result in very little racial and economic diversity and would fail to consider the obstacles that individual students had to overcome. Accordingly, much of the debate over affirmative action centers around three approaches: racial preferences, class rank plans, and economic preferences.

Racial preferences. Race-sensitive admissions are used at most selective universities in the country with the exception of those in a handful of states where preferences have been banned by public initiative, court decision, or executive order.[4] At the top 20 percent of colleges, where race conscious admissions are focused, the advantage provided to applicants who are African American is estimated by Thomas Kane of UCLA to be the equivalent of 400 SAT points or two-thirds of a grade point on a four-point grade point average scale.[5] Some policies, such as those employed at the University of Michigan, admit virtually all under-represented minority applicants who are capable of achieving passing grades.[6] Michigan adds 20 bonus points to applicants from under-represented racial and ethnic groups out of a possible 150 points. By comparison, a maximum of 12 points is provided for a perfect SAT score.[7] Carnevale and Rose estimate that racial preferences as currently practiced boost black and Latino representation from a total of 4 percent at the nation's top 146 colleges under a system of grades and test scores to 12 percent.[8]

Class Rank/Percentage Plans. Public universities in three states—California, Texas, and Florida—have adopted a class rank admissions plan in lieu of race-sensitive affirmative action. Students are automatically admitted to the public university system if they rank at the top of their high school class, irrespective of standardized test scores or other factors. In California, a student must be in the top 4 percent; in Texas, the top 10 percent; and in Florida, the top 20 percent. Given racial segregation at the high school level, proponents argue that percentage plans boost racial diversity in a race-neutral manner.

Economic preferences. At a number of universities that have been banned from considering race in admissions, economic preference programs have been adopted in their place. The University of California uses "comprehensive review"—examining academic accomplishments in light of such obstacles as "low family income, first generation to attend college," and "disadvantaged social or educational environment."[9] The University of Washington looks at academic achievement in the context of such factors as "family income, number in family, parents' educational level, [and] high school free lunch percent."[10] The University of Florida's Profile Assessment program provides a leg up to "students who are poor, attend a low performing high school, or whose parents didn't attend college."[11] Written into Texas law is the consideration of obstacles such as "the socioeconomic background of the applicant," "whether the applicant would be the first generation of his or her family to attend or graduate from an institution of higher education," and "the financial status of the applicant's school district."[12] Extensive social science research suggests that an ideal definition of

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economic disadvantage would examine seven economic obstacles: (1) parental income, (2) parental occupation(s), (3) parental education, (4) single parent household, (5) wealth or net worth, (6) neighborhood concentrations of poverty, and (7) school concentrations of poverty or other measure of school quality.[13]

Most universities employing race-based affirmative action also say they provide a leg up to disadvantaged applicants. In their amicus brief in the University of Michigan case, for example, Harvard, Princeton, and six other elite universities said they "already give significant favorable consideration" to socioeconomic status.[14] But the Carnevale and Rose data challenge this assertion for the top 146 colleges. If low-income students routinely received a break in admissions, as many colleges suggest, we would expect to see them over-represented compared to their academic records—as is true for racial minorities. In fact, the representation of poor and working class students today is lower, not higher, than if grades and test scores were the sole basis for admissions, the researchers find.[15] The finding tracks with a study of law school admissions, which finds that despite the rhetoric of admissions committees, law schools give no leg up to disadvantaged applicants.[16] Growing evidence suggests not only that colleges provide preferences to the offspring of (mostly affluent) alumni, but also that they provide a leg up to "development" candidates—those whose parents are likely to provide a sizeable donation to the university.[17]

II. Evaluating Alternatives Based on Six Criteria

How do racial preferences, economic preferences, and the class-rank approach stack up? Below, we evaluate the alternatives measured along seven criteria.

1. Fairness

What system of admissions is most fair to individual applicants? Research suggests that people consider a system to be "fair" if it honors "merit" in admissions—by which they mean not only the academic record a student achieves, but also what obstacles a student had to overcome.[18] Under this definition, economic affirmative action is not a challenge to merit, but rather, a better approximation of it. A 3.6 GPA and SAT of 1200 surely means something more for a low-income, first-generation college applicant who attended terrible schools than for a student whose parents have graduate degrees and pay for the finest private schooling.

Racial preferences, by contrast, are not a reliable proxy for disadvantage. While it is true that blacks and Latinos are disproportionately poor, racial affirmative action currently benefits the most advantaged minority students disproportionately, and does little to help poor and working class students of color. Former Princeton president William Bowen and former Harvard president Derek Bok, strong supporters of affirmative action, find that 86 percent of blacks who enrolled in the twenty-eight selective universities they studied were middle or upper-middle class.[19] Bok argues that a wealthy minority student is not admitted to Harvard as a matter of fairness or reparations but because she adds to the student body.[20] The whole concept of "deserving" or "earning" a spot is considered naive by many members of the academy. Students are admitted because they fit the needs of the university and the society at a particular point in time not because there is anything intrinsically worthy about them.[21]

Carnevale and Rose's polling data, however, suggest that Americans are deeply invested in the notion that admissions decisions should be fair because higher education is a ticket to opportunity.[22] Under this vision, students are not admitted to elite universities just to provide a diversity of viewpoints that make for an interesting class discussion for other students and professors for four years; admissions also provide an opportunity for the student to enjoy greater professional success for the following forty years. The data outlined above suggests there are indeed lifetime advantages to attending a selective college.

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But if fairness requires looking at economic obstacles overcome, what about also looking at racial discrimination overcome? Data show that even middle-class African Americans lag in achievement, on average.[23] Blacks and Latinos are more likely to attend schools of concentrated poverty than whites of similar income—which imposes an independent disadvantage on those students.[24] These racial patterns reflect differing concentrations of neighborhood poverty, which are in turn a reflection of housing discrimination, in large measure. One recent study found that black families with incomes in excess of $60,000 live in neighborhoods with higher poverty rates than white families earning less than $30,000.[25] Others have noted that middle-class blacks are generally newer arrivals to the middle-income status than middle-class whites, and that even among whites and blacks of similar income, blacks have fewer financial assets. While black median income is 62 percent of white median income, black median net worth is just 12 percent of white median net worth.[26] Whereas income reflects a snapshot in time, wealth measures the accumulation of income (or debt) over generations, and better captures the legacy of slavery and segregation.[27]

But economic affirmative action can reflect both of these forms of discrimination indirectly. In defining obstacles, a university should consider not only such factors as parental income, education, and occupation, but also such factors as a high school's socioeconomic status, neighborhood economic status, and family net worth. Once these factors are included, it is very difficult, as a matter of fairness, to insist on continuing to use race to benefit advantaged students of color, living in advantaged communities and enjoying the benefits of a substantial net worth.[28]

How do the percentage plans stack up under the fairness criterion? If admissions officers look at merit in the context of obstacles overcome, the percentage plans ignore both a crucial component of achievement (standardized test scores) and a crucial measure of obstacles overcome (consideration of parental income, education, occupation, and wealth). Those students who attend disadvantaged high schools are, on the whole, more likely to be disadvantaged themselves; but Carnevale and Rose's data suggest that the economically better off students disproportionately benefit from the class rank approach. Even in the poorest schools, nearly 60 percent of students in the top 10 percent come from the top two economic quartiles, they find.[29] The percentage plans, like racial preferences, are an ineffective proxy for addressing the fundamental root source of inequality: the division between the haves and have nots.

2. Racial and Economic Diversity

Fairness is important in the process, but it is also relevant to look at results. What will top American universities look like—racially and economically—if we adopt different admissions schemes?

To examine this question at the top 146 colleges, as defined by *Barron's Guide*, Carnevale and Rose simulated a pool consisting of (a) all students who have good grades and score above 1300 on the SAT (or the ACT equivalent), plus (b) economically disadvantaged students with high grades and test scores (between 1000 and 1300 on the SAT). Students were considered disadvantaged if they were in the bottom 40 percent by socioeconomic status (defined as parents' income, education, and occupation) and/or attended high schools with a high percentage of students eligible for free and reduced price lunch. The preference implied under the Carnevale and Rose model is similar in magnitude to that currently used for race.[30] The top 146 colleges represent the most selective 10 percent of four-year colleges and are at the heart of the debate over affirmative action policies.[31]

Carnevale and Rose find that a race-blind economic affirmative action program would boost African American and Latino admissions from 4 percent (under a system of grades and test scores) to 10 percent, which is somewhat below the current 12 percent representation.[32] Any

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decline in racial diversity is disturbing. But a two-percentile-point decline hardly justifies the hyperbole espoused by some advocates of affirmative action who warn that if race cannot be used, we may see "the immediate re-segregation of our nation's top universities, both public and private."[33]

Moreover, adding the additional factors outlined above—net worth and neighborhood concentrations of poverty—should boost racial diversity beyond the 10 percent figure that the more limited definition of economically disadvantage yields. At UCLA Law School, for example, under a socioeconomic program counting wealth and single-parent family status alongside other traditional socioeconomic factors, in the fall 2002 entering class, African Americans were 11.4 times as likely to be admitted under the socioeconomic program as other programs, and Latinos were 5.6 times as likely to be admitted.[34]

While economic affirmative action, properly defined, would produce almost as much racial diversity as using race, it would produce far more economic diversity than racial affirmative action has. At top tier colleges, students in the highest economic quartile take up 74 percent of the available slots, compared with 3 percent from the bottom economic quartile.[35] The under-representation of students from poor and working-class families at elite universities is far greater than the under-representation of students of color; indeed, low-income students are as under-represented today as minorities would be if racial affirmative action programs were *eliminated* and replaced by a regime of grades and test scores.[36] Economically disadvantaged students are twenty-five times less likely to be found on elite college campuses as economically advantaged students—and yet this phenomenon receives none of the attention, nor moral outrage, associated with efforts to curtail racial preferences.[37]

A system providing a preference to socioeconomically disadvantaged students under their model would produce a 38 percent representation for the bottom economic half, up from 10 percent currently.[38] In other words, economic affirmative action at the nation's most selective 146 colleges will result in a two-percentage-point decline in racial diversity (using a narrow definition that does not include neighborhood and wealth) and a twenty-eight-percentage-point increase in economic diversity. (See Figure 1) If diversity is defined broadly, to value differences in both economic and racial backgrounds—children from trailer homes and ghettoes and barrios as well as from suburban minorities—economic affirmative action would provide a large net gain in the total diversity enjoyed by students at elite colleges.

The purpose of economic affirmative action, then, is not just to achieve indirectly "the same result" as racial affirmative action, by covert means. The policy would provide a similar degree of overall racial diversity, but it would benefit a quite different group of African Americans and Latinos, high achievers who overcame economic deprivation—as well as a whole new cohort of working-class whites and Asians—all of whom deserve a place at the table of higher education that has hitherto been denied them.

What about the percentage plans? The evidence to date suggests a mixed picture. The Texas top 10 percent class rank plan appears to be responsible for promoting racial diversity, but an analysis of Florida's top 20 percent class rank plan finds that 99 percent of the students would have been admitted anyway.[39] Carnevale and Rose find that at the top 146 colleges, class rank plans have the potential to promote significantly racial and economic diversity in admissions (producing 12 percent racial diversity and 30 percent economic diversity under a top 10 percent plan), but this would translate into much less diversity among graduates because many students would drop out (see discussion below). To remedy low graduation rates, Carnevale and Rose simulate the effects of a class rank plan with a minimum level of readiness (1000 on the SAT). Under those circumstances, graduation rates would remain high, but representation of blacks and Hispanics would drop from 12 percent today to 7 percent under a top 10 percent

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class rank plan, and 8 percent under a top 20 percent plan, the authors find. Economic diversity (27 percent for the bottom half) would be greater than under racial affirmative action (10 percent), but not as vibrant as under economic affirmative action (38 percent).[40]

3. Graduation Rates

Racial affirmative action programs at the top 146 colleges have not resulted in large scale drop out rates perhaps because the vast majority of students admitted to top colleges score above the 1000 point threshold on the SAT.[41] Though intuitively one might think that graduation rates would fall for less-prepared students in rigorous academic programs, in fact those students graduate at higher rates than if they would if they had attended less-selective schools.[42] Bowen and Bok, likewise, demonstrate that blacks graduate at higher rates among the twenty-eight elite colleges they studied than among the less-selective colleges.[43]

What would happen to graduation rates if economic affirmative action were employed? Bowen and Bok reverse course here and argue that it is not "realistic" to admit more disadvantaged students. "The problem is not that poor but qualified candidates go undiscovered, but that there are simply too few of these candidates in the first place."[44]

Carnevale and Rose, however, find that selective universities could admit far more low-income students than they currently do with no drop in graduation rates. "There are large numbers of students from families with low income and low levels of parental education who are academically prepared for bachelor's degree attainment, even in the most selective colleges," they write.[45] Only 44 percent of low-income students who score in the top quartile academically attend a four year college, and this group constitutes "low hanging fruit" for selective schools.[46]

Under Carnevale and Rose's simulation of economic affirmative action, the bottom economic half sees representation soar from 10 percent to 38 percent, yet if colleges also eliminated legacy and athletic preferences, overall academic quality would not suffer. Indeed, the authors find, graduation rates would actually climb, from 86 percent today to almost 90 percent.[47] This finding is consistent with the theory of economic affirmative action: that it is, in fact, more meritocratic than ignoring obstacles overcome.

Research by Donald Heller of Pennsylvania State University conducted for The Century Foundation also suggests that many selective schools could admit greater numbers of low income and working class students and maintain very high standards. Heller looks at the percentage of students receiving Pell grants as a proxy for economic diversity, noting that 90 percent of all dependent Pell recipients at four year colleges come from roughly the bottom 40 percent of the economic distribution. In the 2001–2002 academic year, Pell recipients constituted 32 percent of students at U.C. Berkeley and 24 percent at Smith—levels many times higher than Bowen's Princeton (7 percent) or Bok's Harvard (7 percent).[48] In Bowen and Bok's pessimistic view of how well poor and working-class students can perform, one may detect shadows of Harvard president James Bryant Conant's opposition to the GI Bill, which he incorrectly thought would overpopulate higher education with underqualified students.[49]

There is also some evidence that a student who has done well despite having to overcome serious obstacles is likely to have greater long-run potential. One study of Harvard students in the 1950s, 1960s and 1970s found that blue-collar students with more modest SAT scores were the most successful of all as adults.[50]

How would percentage plans work at the nation's most selective 146 colleges? The biggest problem, the authors find, is that if selective colleges were to ignore standardized tests completely, they would admit many students who score below 1000 on the SAT and are likely to drop out.[51] Because high schools differ so widely in quality, graduation rates at the top 146

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colleges, which now stand at 86 percent, would plummet, Carnevale and Rose find.[52] African American and Hispanic students would be particularly likely to dropout, the authors conclude.[53]

Although preliminary experience with Texas has not shown increased dropout rates among students admitted under the class rank plan, this appears in some measure to reflect the fact that a relatively small percentage of eligible students take advantage of the program (about 700 of the state's 1800 schools still do not send a single graduating senior to the flagship campus, the University of Texas at Austin).[54] It is also possible that the problems of inadequate preparation reflected in a student who scores below 1000 on the SAT might be more glaring in a the most competitive colleges.[55]

4. Legality

As a matter of constitutional law, racial classifications are subject to the most exacting level of review, known as "strict scrutiny," and are presumptively unconstitutional unless they serve a "compelling" state interest and are "narrowly tailored." Racial preferences have been deemed unconstitutional in the Fifth and Eleventh Circuits, and it is possible that a majority of the U.S. Supreme Court will rule that racial preferences designed to promote racial diversity are unconstitutional.[56] If the court so rules, such preferences will be illegal not only at public universities, but also at all private universities that receive federal funding, under Title VI of the 1964 Civil Rights Act.[57] It is also possible that the Court will instead invoke a rule that race-neutral alternatives must be tried before a college resorts to racial considerations.[58]

Economic classifications, by contrast, are subject to the most relaxed form of judicial review and are presumptively constitutional. Even if the Supreme Court rules against the use of race—or enforces the requirement that race-neutral alternatives must be explored before using race—economic preferences would remain perfectly legal. Indeed, the program has been affirmatively endorsed by the two most conservative Supreme Court justices, Antonin Scalia and Clarence Thomas.[59]

By contrast, the percentage plans have little independent justification beyond their ability to serve as a proxy for race, which makes the schemes legally vulnerable. In Florida, aides to Governor Jeb Bush conceded that they used the 20 percent cutoff because computer models showed the top 10 percent or top 15 percent did not yield the desired racial result.[60] Some opponents of racial preferences have argued that the percentage plans are also unconstitutional "because the criteria in them were adopted primarily because they guarantee a particular racial and ethnic mix, not because of any legitimate academic reason."[61]

5. Political

As a matter of politics, Carnevale and Rose argue, the important policy goal of promoting economic affirmative action is more likely to be adopted if it is offered as a supplement to, rather than a substitute for, racial affirmative action.[62] This contention certainly seems true for progressives. When liberals say they oppose class-based affirmative action because "it will end up helping a lot of poor whites and Asians," presumably if the policy were put in place on top of race-specific affirmative action, they would see aiding poor whites and Asians as a desirable outcome.

Having said that, experience suggests that universities employ aggressive economic affirmative action *only* when race is not an alternative. As Carnevale and Rose's data show, the current system of admission (which permits the use of race at most universities) produces pitiable amounts of economic diversity. The exceptions to this rule are public universities in those states—Texas, California, Florida, and Washington—where racial preferences have been eliminated.

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It is probably no accident that among Donald Heller's list of colleges ranked by percentage of Pell recipients, leaders include institutions in states where the use of race is banned—U.C. Berkeley (32.4 percent) and UCLA (35.1 percent)—while at the other extreme are public universities such as the University of Virginia (8.6 percent) and William and Mary (8.0 percent) where the use of race continues.[63] Most observers believe that the drive to adopt economic affirmative action in California sprung not from a sudden sense of commitment to poor and working-class students, but from the political pressure to find ways to indirectly promote racial diversity. UCLA Law professor Richard Sander says that, outside of his immediate colleagues, "only one out of every 20 people I've talked to in the legal academy seem to attach value to the idea of economic diversity" for its own sake. The interest derives instead from the racial dividend that economic affirmative action produces.[64] If the U.S. Supreme Court rules against racial preferences, the politics surrounding economic affirmative action may be transformed, as it was in California.

But even if the Court sustains racial preferences, economic affirmative action is far more defensible as a political matter than racial affirmative action. Just because a policy is legal does not mean it will be politically viable, as we have seen in California and Washington, where voters passed initiatives to ban racial preferences. Carnevale and Rose acknowledge that support for racial affirmative action in higher education is very thin, and they find solid public support for consideration of economic obstacles.[65] This finding comports with a wide body of public opinion research over several years.[66]

Three recent polls from January and February 2003 are illustrative. A *Los Angeles Times* survey found that by 56 percent to 26 percent, Americans agreed with President Bush's opposition to the University of Michigan's racial preference plan. (Even Democrats narrowly supported Bush.) A *Newsweek* poll found that Americans opposed preferences for blacks in university admissions by 68 percent to 26 percent. And an EPIC/MRA poll found that Americans oppose the University of Michigan's affirmative action plan 63 percent to 27 percent. By contrast, Americans in these same polls supported preferences for low-income or economically disadvantaged students of all races by 65 percent to 28 percent (*Newsweek*), 59 percent to 31 percent (*LA Times*), and 57 percent to 36 percent (EPIC/MRA).[67] Internationally, many other countries pursue such economic affirmative action policies over racial affirmative action.[68]

6. Application Nationally and to Graduate Education

Racial and economic affirmative action programs can be applied to colleges in any state in the nation, and to graduate as well as undergraduate programs. By contrast, percentage plans do not easily apply to graduate schools, and at the undergraduate level, their effects will vary widely from state to state. The program's success in producing racial diversity is perversely contingent on continued segregation of high schools, and would produce far less racial diversity in states less segregated than Texas, California, and Florida. Among the fifty states, California ranks eleventh most segregated for blacks and fourth for Latinos; Texas was twelfth for blacks and second for Latinos; and Florida was sixteenth for blacks and seventh for Latinos.[69]

7. Enforcement and Cost

Economic affirmative action raises questions of enforcement not associated with class rank or race approaches. But a properly constructed economic preference program examines quantifiable information that is already provided by applicants seeking financial aid and can be readily verified. A spot-check program used by the University of California at San Diego campus to verify family income and other personal information provided under "comprehensive review" confirmed the validity in all but one of 437 applicants selected.[70]

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The financial cost of racial affirmative action is minimal because the strategy tends to help middle and upper status students of color. Percentage plans cost a bit more because they bring in more economic diversity. Economic affirmative action is likely to be the most expensive of all because it raises the share of students from the bottom economic half from 10 percent to 38 percent. But Carnevale and Rose find strong public support for increasing financial aid allowances.[71] In Florida, the movement from a race-based to a race-neutral approach was sold in part with a large (43 percent) increase in financial aid, mostly for families with incomes below $30,000.[72] Americans manage to provide huge subsidies that benefit many students whose families could afford to pay—more than $50 billion annually to reduce tuition at public colleges, regardless of need; and federal tax breaks for the middle class will cost $60 billion over the next five years.[73] Surely there is room for aid to benefit high achieving students who have overcome economic obstacles. As President Harry Truman's Commission on Higher Education warned more than fifty years ago, "If college opportunities are restricted to those in the higher income brackets, the way is open to the creation and perpetuation of a class society which has no place in the American way of life."[74]

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April 2, 2003

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Endnotes

1. A fourth alternative, known as "developmental" affirmative action, does not change admissions standards, but seeks to better prepare low-income and minority students for admissions through reform of the K–12 system. Most observers would agree that providing genuine equal opportunity early on would be preferable to any kind of affirmative action at the admissions stage, but few believe that we are likely to do so any time soon.
2. See Anthony P. Carnevale and Stephen J. Rose, "Socioeconomic Status, Race/Ethnicity and Selective College Admissions," The Century Foundation, New York, March 2003. Unlike this issue brief, the authors of the study conclude that economic affirmative action should supplement rather than replace racial affirmative action.
3. Carnevale and Rose, "Socioeconomic," pp. 11–20.
4. The exceptions include California and Washington (public initiative), Texas and Georgia (court decision), and Florida (executive order).
5. See Thomas J. Kane, "Racial and Ethnic Preferences in College Admissions," in Christopher Jencks and Meredith Phillips (eds.), *The Black-White Test Score Gap* (Washington, D.C.: Brookings Institution Press, 1998), pp. 432, 438.
6. See Brief of the United States as Amicus Curiae in the U.S. Supreme Court, *Gratz v. Bollinger*, No. 02-516, p. 3.
7. See Barbara Kantrowitz and Pat Wingert, "What's at Stake," *Newsweek*, January 27, 2003, p. 34.
8. Carnevale and Rose, "Socioeconomic," p. 47.
9. Office of Strategic Communications, Facts About the University of California, "Comprehensive Review," November 2001 available at http://www.ucop.edu/news/factsheets/2001/comprev.pdf.
10. E-mail correspondence from Tim Washburn, director of University of Washington admissions, to author, December 2, 2002.
11. Joni James, "One Florida Remains Thorny," *Miami Herald*, October 28, 2002, p. A1.
12. Shelby Samuelson and Demaree Michelau, "Whatever Happened to Affirmative Action?" *State Legislatures*, March 1, 2001, p. 28.
13. For further discussion of the social science evidence supporting consideration of these factors, see Richard D. Kahlenberg, *The Remedy: Class, Race, and Affirmative Action* (New York: Basic Books, 1996), pp. 128–36.
14. Brief of Harvard University, Brown University, The University of Chicago, Dartmouth College, Duke University, The University of Pennsylvania, Princeton University, and Yale University as Amicus Curiae Supporting Respondents, U.S. Supreme Court in *Grutter v. Bollinger* and *Gratz v. Bollinger*, p. 22, n.13.
15. Under a system of grades and test scores, the bottom 50 percent by income would have a 12 percent representation at the 146 most selective colleges they study. Under the current system of race-based affirmative action, the bottom half actually does marginally worse than it would under the system of grades and test scores, dropping to a 9 percent representation. Carnevale and Rose, "Socioeconomic," p. 38.
16. Linda F. Whiteman, "The Threat to Diversity in Legal Education: An Empirical Analysis of the Consequences of Abandoning Race As a Factor in Law School Admission Decisions," *New York University Law Review* 72 (April 1997): 42–43.
17. See, e.g., Daniel Golden, "Admissions Preferences Given to Alumni Children Draws Fire," *Wall Street Journal*, January 15, 2003, p. A1; Daniel Golden, "Many Colleges Bend Rules to Admit Rich Applicants," *Wall Street Journal*, February 20, 2003, p. A1.
18. Carnevale and Rose, "Socioeconomic," pp. 21–31.
19. William Bowen and Derek Bok, *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions* (Princeton: Princeton University Press, 1998), p. 49, Figure 2.12.
20. See Derek Bok quoted in Kahlenberg, *The Remedy*, p. 29.
21. See Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982), pp. 141–42 (describing, though not endorsing, this view).
22. Carnevale and Rose, "Socioeconomic," p. 29.
23. See, e.g., Andrew Hacker, *Two Nations* (New York: Ballentine Books, 1992) , p. 146.
24. Carnevale and Rose, "Socioeconomic," pp. 36–37.
25. See Darly Fears, "Disparity Marks Black Ethnic Groups, Report Says," *Washington Post*, March 9, 2003, p. A7.
26. Edward N. Wolff, *Top Heavy: The Increasing Inequality of Wealth in America and What Can Be Done About It* (New York: New Press, 2002), p. 20, Table 4.1.
27. Dalton Conley, "The Cost of Slavery," *New York Times*, February 15, 2003, p. A25.
28. One could argue that because even upper-middle class students of color face racial discrimination in society, this should be considered as an obstacle factored into admissions decisions. But even under the *Bakke* decision, the Court has rejected racial preferences to counteract free-floating "societal" discrimination. If an individual student could show that she suffered serious discrimination which suggests that her academic record does not reflect her full potential, it is entirely appropriate to consider that evidence. This would not be a preference for race, but rather a preference for racial discrimination, and in theory, could apply to an individual of any race, though in practice would apply mostly to students of color.
29. Carnevale and Rose, "Socioeconomic," p. 57.

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30. Recall that Kane estimates that the current preference for African Americans is roughly 400 SAT points. Carnevale and Rose's model assumes that all students within the pool created—disadvantaged students with SAT scores between 1000 and 1300 plus all students (advantaged and disadvantaged) who score between 1300 and 1600 on the SAT—have an equal chance of admissions. The 1000 point cutoff is employed because students have a good chance of succeeding when they score above that point. The authors acknowledge that this is not the way colleges would or should admit individual students. A student with a 1280 SAT who is economically disadvantaged should have a greater (not an equal) shot at admissions as an economically advantaged student scoring 1300. Likewise, at the other extreme, an economically disadvantaged student scoring 1000 should have a smaller (not an equal) chance of being admitted as an economically advantaged student receiving a 1600. That is to say, in these examples, the preference for disadvantaged students should be more than 20 SAT points, but less than 600 points. But these individual effects are likely to cancel one another out, and in approximating rough shares of students at the 146 colleges, the authors' simulation provides a fair and accurate aggregate prediction.

31. Carnevale and Rose, "Socioeconomic," p. 6. Affirmative action policies are concentrated in the top 20 percent of four year colleges. See Kane, "Racial and Ethnic Preferences," p. 432.

32. Carnevale and Rose, "Socioeconomic," p. 55. Others, like Thomas Kane, predict even larger declines in racial diversity when economic affirmative action is employed. See, e.g., Kane, "Racial and Ethnic Preferences," pp. 448–51 (noting that while blacks and Hispanics are disproportionately represented among low income students, only 17.3 percent of high-scoring, low-income students are black and Hispanic). Carnevale and Rose appear to receive different results in part because they consider a pool of applicants in the top 25 percent of test takers, while Kane looks at the top 10 percent. In addition, while Kane looks at income as a proxy for disadvantage, Carnevale and Rose look at income, education, occupation, and high school economic status. Carnevale and Rose's methodology appears to be superior in both respects. The decision to reach deeper into the pool of test taker is closer to the practice employed in the use of racial affirmative action, where Kane estimates the impact of being African American at 400 SAT points. Likewise, an admissions officer always would want to look at more factors, not less, in considering applicants. Indeed, Carnevale and Roses's analysis could be improved by adding additional factors such as net worth and neighborhood poverty concentrations (see discussion below).

33. Mary Sue Coleman, "No Time for Colorblindness," *Washington Post*, December 15, 2002, p. B7.

34. Data provided to author for the entering class in the fall of 2002 by Andrea Sossin-Bergman, director of admissions, UCLA Law School, November 2002. African Americans constituted 17.1 percent of those admitted under the Socioeconomic Status (SES) program (19 of 111) compared with 1.5 percent of admissions for non-SES programs (13 of 848). Likewise, Latinos constituted 23.4 percent of SES admits (26 of 111) compared with 4.2 percent for non-SES admits (36 of 848). Even though the SES program admitted 111 students, compared to 848 under non-SES, the absolute number of African Americans admitted under the SES program (19) exceeded the number admitted under other programs (13). The overall number of low-income and minority students enrolled at UCLA Law School remains relatively small because the law school admitted only 111 of 959 students (12 percent) through the SES program. In addition, UCLA Law School faces an uneven playing field in recruiting minority applicants. UCLA's economic affirmative action program must compete for minority students who are being offered massive racial preferences at other law schools (private law schools in California, or public and private law schools in most of the rest of the country), and may be courted with the offer of race-based scholarships. This problem is exacerbated because some minority students are particularly interested in attending a school with a strong core of minority classmates and do not even apply to the relatively few universities now operating under a ban on racial preferences. The racial dividend of economic affirmative action is likely to be much greater when all schools are playing by the same set of rules.

35. Carnevale and Rose, "Socioeconomic," p. 11. This finding is consistent with William Bowen and Derek Bok's finding that the bottom 28 percent by socioeconomic status have just a 3 percent representation at the twenty-eight selective colleges they studied. See Bowen and Bok, *Shape of the River*, p. 341.

36. Carnevale and Rose find that at the 146 most selective colleges, if grades and test scores were the sole measure of admissions, the classes would be 4 percent African American and Latino, even though those groups constitute 28 percent of eighteen-year olds (Carnevale and Rose, "Socioeconomic," pp. 10, 47). This degree of under-representation would be comparable to the current under-representation of low-income students, who make up 3 percent of the population at selective colleges but 25 percent of eighteen-year olds (Carnevale and Rose, "Socioeconomic," p. 11). For comparable findings in Bowen and Bok's analysis, see discussion in Richard D. Kahlenberg, "Style, Not Substance," *Washington Monthly*, November 1998, pp. 45–48.

37. For example, the editors of the *New York Times* argue that racial integration in higher education is especially important because elementary schools are segregated by race. But they make no comparable argument that economic integration in higher education is important, even though elementary schools are also segregated by economic class. See "Upholding Affirmative Action," *New York Times*, December 3, 2002, p. A30.

38. Carnevale and Rose, "Socioeconomic," p. 55.

39. See Patricia Marin and Edgar K. Lee, "Appearance and Reality in the Sunshine State: The Talented 20 Program in Florida," The Civil Rights Project, Harvard University, February 2003, pp. 21–22. It appears that the Profile Assessment program, and other portions of Florida's race-neutral efforts, have proven more important to the overall goal of providing racial diversity at Florida's universities than has the Talented 20 program.

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40. Carnevale and Rose, "Socioeconomic," p. 53.
41. Ibid., p. 78, Table 4.1.
42. Ibid., pp. 12–14.
43. Bowen and Bok, *Shape of the River*, p. 61.
44. Ibid., p. 50.
45. Carnevale and Rose, "Socioeconomic," p. 38..
46. Ibid., p. 39.
47. Ibid., p. 55.
48. Donald E. Heller, "Pell Grant Recipients in Selective Colleges and Universities," The Century Foundation, New York, March 2003.
49. Nicholas Lemann, *The Big Test: The Secret History of the American Meritocracy* (New York: Farrar, Straus, and Giroux, 1999), p. 59.
50. See Ethan Bronner, "Dividing Lines: Colleges Look for Answers to Racial Gap in Testing," *New York Times*, November 8, 1997, p. A1 (citing unpublished dissertation at the Harvard Graduate School of Education).
51. Carnevale and Rose, "Socioeconomic," p. 40 (Graduation rates at the top 146 colleges averages 86 percent, but drops to 61 percent for students scoring between 900 and 1000 on the SAT and to 30 percent for those scoring below 900).
52. Ibid., pp. 51–52. See Michael Puma et al., *Prospects: Final Report on Student Outcomes* (Cambridge, Mass.: Abt Associates, 1997), p. 12 (in congressionally mandated study of schools grades 1 through 9, the grade of *A* in high poverty schools was equivalent to a grade of *C* in low poverty schools when students were compared on standardized tests).
53. Carnevale and Rose, "Socioeconomic," p. 52.
54. Fred Hiatt, "Texas's 10 Percent Experiment," *Washington Post*, October 28, 2002, p. A19.
55. The University of Texas at Austin does not rank in the list of Barron's 146 top colleges, though it is included in the *U.S. News & World Report*'s top fifty list. University of Texas at Austin admits 64 percent of students compared to a 26 percent acceptance rate at University of California at Berkeley. See Catherine L. Horn and Stella M. Flores, Percent Plans in College Admissions: A Comparative Analysis of Three States' Experiences (Cambridge, MA: Civil Rights Project, Harvard University, February 2003), p. 12.
56. See *Johnson v. Board of Regents*, 263 F.3d 1234 (11th Cir. 2001) and *Hopwood v. Texas*, 78 F.3rd 932 (5th Cir. 1996), *cert. denied* 518 U.S. 1033 (1996).
57. See *Regents of Univ. of Calif. v. Bakke*, 438 U.S. 265 (1978).
58. Under current strict scrutiny doctrine—not always enforced—state actors are supposed to explore race-neutral alternatives before resorting to the use of race. See e.g. *Adarand Constructors v. Pena*, 515 U.S. 200 (1995), at 237–38.
59. See, e.g., Antonin Scalia, "Commentary: The Disease as Cure—'In Order to Get Beyond Racism We Must First Take Account of Race,'" *Washington University Law Quarterly* (1979), pp. 153–54; U.S. Congress, Senate Judiciary Committee, *Nomination of Clarence Thomas to Be Associate Justice of the United States Supreme Court*, October 1, 1991, 102nd Cong., 1st Sess., pp. 358–60.
60. Jeffrey Selingo, "What States Aren't Saying About the 'X Percent Solution,'" *Chronicle of Higher Education*, June 2, 2000, p. A31.
61. Roger Clegg, "Issues for the Supreme Court to Weigh on Affirmative Action," *Chronicle of Higher Education*, January 3, 2003, p. B10.
62. Carnevale and Rose, "Socioeconomic," p. 61.
63. Heller, "Pell Grant Recipients."
64. Sander, quoted in Richard D. Kahlenberg, "In Search of Fairness," *Washington Monthly*, June 1998, p. 28.
65. Carnevale and Rose, "Socioeconomic," p. 28.
66. See, e.g., Carol M. Swain, *The New White Nationalism in America: Its Challenge to Integration* (Cambridge: Cambridge University Press, 2002), pp. 192–97, 212, and 351–68; John David Skrentny (ed.), *Color Lines: Affirmative Action, Immigration, and Civil Rights Options for America* (Chicago: University of Chicago Press, 2001), pp. 16–17, and 226–27; Sam Howe Verhovek, "In Poll, Americans Reject Means but Not Ends of Racial Diversity," *New York Times*, December 14, 1997, p. A1; and Richard Morin, "Misperceptions Cloud Whites' View of Blacks," *Washington Post*, July 11, 2001, p. A1.
67. EPIC/MRA poll (conducted January 29–February 3, 2003); *Los Angeles Times* poll (conducted January 30–February 2, 2003); and *Newsweek* poll (conducted January 16–17, 2003).
68. See Skrentny, *Color Lines*, pp. 259 (Great Brittain), 288 (France), and 307 (India.)
69. Thomas Kane, "Basing College Admission on High School Class Rank," Working Draft, June 14, 2000, p. 21. See also Gary Orfield and John T. Yun, "Resegregation in American Schools," Harvard Civil Rights Project, 1999, tables 17 and 21.
70. See "First Year Implementation of Comprehensive Review in Freshman Admissions: A Progress Report from the Board of Admissions and Relations with Schools," November 2002, p. 21, available at http://www.ucop.edu/regents/regmeet/nov02/302attach.pdf.
71. Carnevale and Rose, "Socioeconomic," p. 31.

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72. Barry Klein and Stephen Hegarty, "College Program Has Little Impact," *St. Petersburg Times*, September 3, 2000, p. 1A; James, "One Florida."
73. Lawrence Gladieux, "Low-Income Students and the Affordability of Higher Education" in Richard D. Kahlenberg (ed.), *America's Untapped Resource: Low-Income Students in Higher Education* (New York: The Century Foundation Press, forthcoming).
74. President's Commission on Higher Education, 1947, Vol. 2, p. 23, cited in Donald E. Heller (ed.), *Condition of Access: Higher Education for Lower Income Students* (Westport, CT: Praeger/American Council of Education, 2002), p. ix.

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